

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

DJGJC FILE
NO.: 22681

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FAYE FRENCH,

Case No.

Plaintiff,

-against-

MERCANTILE ADJUSTMENT BUREAU,
LLC,

Defendant.

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VERIFIED
COMPLAINT

PRELIMINARY STATEMENT

FIRST: Plaintiff, FAYE FRENCH, brings this action on her own behalf for damages and declaratory and injunctive relief arising from the defendant's violation of § 1692, et. seq. of Title 15 of the United States Code, The Fair Debt Collections Practices Act ("FDCPA"), which prohibits debt collectors from engaging in any false, deceptive, or misleading representation or means in connection with the collection of any debt.

PARTIES

SECOND: Plaintiff is a citizen of the State of America who resides within the State of Maryland.

THIRD: Defendant was and still is a domestic corporation duly organized and existing under and by virtue

of the laws of the State of New York. Defendant's principal place of business is located, upon information and belief, at 6390 Main Street, Williamsville, State New York, County of Erie.

JURISDICTION and VENUE

FOURTH: This Court has Federal question jurisdiction over this action pursuant to 28 U.S.C. § 1331. This is an action for violation of 15 U.S.C. § 1692.

FIFTH: Venue is proper in this district pursuant under 28 U.S.C. § 1391(a)(1).

STATEMENT OF FACTS

SIXTH: That, upon information and belief, on or about Tuesday, November 30, 2004, defendant placed a telephone call to defendant's residence. Plaintiff was unavailable to answer defendant's telephone, therefore, defendant left a voice message on plaintiff's answering machine.

SEVENTH: That, upon information and belief, the message stated that a legal claim had been filed against plaintiff and that it was imperative for plaintiff to return defendant's telephone call.

EIGHTH: The false representation of a "legal claim filed against plaintiff," violates 15 U.S.C. § 1692e(2) (a) .

NINTH: Defendant's failure to disclose that the debt collector is attempting to collect a debt and that any information obtained will be used for that purpose, violates 15 U.S.C. § 1692e(11) .

TENTH: Defendant's failure to send plaintiff a written notice of debt within five (5) days after the initial communication, violates 15 U.S.C. § 1692g(a) .

ELEVENTH: That as a result of defendant's false, deceptive, or misleading representation and unfair debt collection practices, plaintiff has been damaged.

AS AND FOR A FIRST CAUSE OF ACTION
AGAINST DEFENDANT:

TWELFTH: That plaintiff repeats, reiterates and realleges each and every allegation as set forth in paragraphs marked "FIRST" through "ELEVENTH" of the complaint as if same were more fully set forth herein at length.

THIRTEENTH: Defendant's telephone call violated and overshadowed various provisions of FDCPA,

including but not limited to 15 U.S.C. § 1692e(2)(a), 1692e(11) and 1692g(a).

FOURTEENTH: That as a result of defendant's false, deceptive, or misleading representation and unfair debt collection practices, plaintiff is entitled to punitive damages against defendant, plus reasonable attorney's fees as permissible, together with the costs and disbursements of this action.

WHEREFORE, plaintiff respectfully requests that this Court enter judgment its favor against the defendant on the first cause of action as follows:

1. Awarding plaintiff statutory damages;
2. Awarding plaintiff reasonable attorney's fees as permissible, together with the costs and disbursements of this action.
3. Granting plaintiff such other, further and different relief as this Court may deem just and proper in

the premises.

Dated: New York, New York
Monday, April 18, 2005.



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ATTORNEY'S AFFIRMATION

STATE OF NEW YORK)

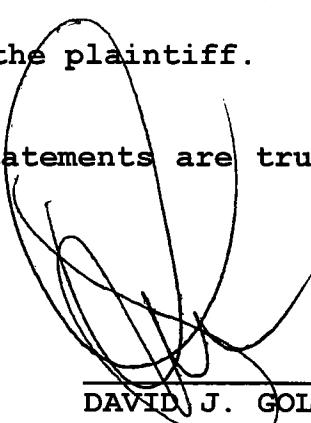
COUNTY OF NEW YORK) ss.:

I, the undersigned, an attorney admitted to practice in the courts of the State of New York and the United States District Court for the Western District, state that I am the attorney of record for the plaintiff in the within action; I have read the foregoing COMPLAINT and know the contents thereof; the same is true to my own knowledge, except as to the matters therein alleged to be on information and belief, and as to those matters I believe it to be true. The reason this verification is made by me and not by the plaintiff is because the plaintiff is not located in the county wherein your affiant maintains his office.

The grounds of my belief as to all matters not stated upon my own knowledge are as follows: Records contained in my file and conversations had with the plaintiff.

I affirm that the foregoing statements are true, under the penalties of perjury.

Dated: New York, New York
Monday, April 18, 2005.


DAVID J. GOLD, ESQ.